

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROGER E. WALL,

Defendant.

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Case No. 05-03032-01-CR-S-RED

ORDER

Pending before the Court is Defendant's Motion to Suppress Physical Evidence and for the Return of Evidence Illegally Seized (Doc. 21), Government's Response to Motion to Suppress Physical Evidence and For the Return of Evidence Illegally Seized (Doc. 45), and Defendant Wall's Reply to the Government's Response to Motion to Suppress Physical Evidence (Doc. 46).

Defendant claims that the seizure of two envelopes from the residence of Joan Rackley on November 16, 2004, and the later obtaining of a search warrant resulting in the search and seizure of evidence from the two envelopes on December 8, 2004, was unlawful and in violation of Defendant's fourth amendment rights for protection against unreasonable search and seizure. Defendant's original motion also claimed that a second search warrant issued on December 13, 2004, was invalid, however, since there was no evidence obtained as a result of said search for which suppression is sought, the Court considers this part of Defendant's motion to be moot.

On September 8, 2005, United States Magistrate Judge James C. England held an evidentiary hearing on Defendant's Motion to Suppress. On October 7, 2005, Defendant filed his Post Hearing Brief (Doc. 53). On November 10, 2005, United States Magistrate Judge James C. England issued his Report and Recommendations (Doc. 54). On December 12, 2005, Defendant filed his objection

and exceptions to Report and Recommendations of the United States Magistrate Judge regarding Defendant Wall's Motion to Suppress (Doc. 59-1).

Upon careful and independent review of the pending motion, the suggestions filed by the parties in regard to said Motion, the transcript of the hearing conducted before United States Magistrate Judge James C. England, and a review of the applicable law, the Court hereby adopts and incorporates as its own opinion and order, the Report and Recommendation of United States Magistrate Judge James C. England.

Accordingly, it is hereby ordered that Defendant's Motion to Suppress Physical Evidence and for the Return of Evidence Illegally Seized (Doc. 21) is overruled and denied.

IT IS SO ORDERED.

DATE: February 2, 2006

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT